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RUEHCV/AMEMBASSY CARACAS 2742
RUEHGE/AMEMBASSY GEORGETOWN 0389
RUEHPE/AMEMBASSY LIMA 2923
RUEHMD/AMEMBASSY MADRID 3575
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C O N F I D E N T I A L LA PAZ 002355

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TAGS: [ECON](#) [PGOV](#) [PREL](#) [BL](#)

SUBJECT: MAS' LATEST DRAFT CONSTITUTION: RADICAL RUMORS

REF: A. LA PAZ 2333

[1](#)B. LA PAZ 2244

Classified By: A/DCM Mike Hammer for reasons 1.4 (b) and (d).

Summary

[1](#)1. (C) On August 15, national newspaper La Razon published a draft constitution purportedly written by the ruling Movement Toward Socialism (MAS) party and President Evo Morales' Venezuelan and Spanish advisors. In the days following the publication, some MAS officials repudiated the draft while others confirmed that it was the MAS draft under consideration in the Constituent Assembly, and eventually MAS spokespersons said it was indeed the MAS draft. Among the most important new elements of the draft were unlimited reelection for the president, the requirement that presidential candidates speak an indigenous language, elimination of international arbitration options for foreign investors, different autonomies including departmental, regional, municipal and indigenous autonomies, special benefits for indigenous citizens, and state control of electronic media (ref B.) Emboffs have since heard from multiple sources that there is a newer, more-radical constitution being considered in the Constituent Assembly as the official MAS draft. Emboffs have not seen this supposed new draft, nor can we confirm reports of the contents. What follows is a possible but not probable bad-case scenario. End Summary.

New Draft, No copies

[1](#)2. (C) So far the existence of a different, more-radical draft constitution is only hearsay, albeit from well-placed sources. The new draft was mentioned in a meeting in Cochabamba, where emboffs noted that media representatives present did not seem to have access to the new draft. Opposition contacts in the Constituent Assembly state that

the draft is close-hold, and that they cannot provide us with any copies, not even of the most critical portions. However, one contact did provide a list of the differences from the original draft that, in this contact's opinion, were most important.

Possible Changes

¶3. (C) Reportedly, the new draft eliminates the possibility of private education, a change that could be damaging to the mission, as it might affect the American school. (Note: Ambassador Goldberg met with Education Minister Cajias on August 22 to discuss ways to protect the American school, including an agreement that is currently being considered by the Education Ministry that would allow the American school to continue unaffected by Bolivian education reform. Minister Cajias stated that she was very willing to sign an agreement protecting the American School's status, and that Bolivia's new education law would respect the right of parents to choose their children's educational type. End note.) Also, the new draft is reportedly more radical in terms of indigenous empowerment, creating an indigenous "fourth power" to act as a separate oversight body with powers equal to the executive, legislative and judicial branches and allowing for indigenous autonomy but not departmental autonomy (Note: failure to allow for departmental autonomy could spark protests in the media luna departments, which voted for departmental autonomy in the 2006 referendum. End note.) Reportedly the new draft also weakens protection for private property, although our contact did not give further details.

No Constitutional Oversight for Draft Constitution?

¶4. (C) Opposition members of the Constituent Assembly worry that MAS members, including Constituent Assembly President Silvia Lazarte, may call a surprise session of the Assembly, in an attempt to decrease the opposition presence and thereby increase the MAS "majority of those present." Contacts in the Constituent Assembly tell us that they fear a surprise session would be used to vote on the draft Constitution, possibly allowing the MAS another simple majority win. With four of five Constitutional Tribunal magistrates currently suspended (ref A), Bolivia lacks an official body to review the constitutionality of laws or official acts. There is a possibility that the MAS Constituent Assembly members could pass the MAS constitution by simple majority, and there would be no Constitutional Tribunal to rule on the constitutionality of such an act. If the new constitution was approved by national referendum, as has been ordered by Congress, the new constitution could form the basis of any future constitutional review. Thus, the MAS could potentially push through their constitutional changes with no group to act as review or restraint.

Comment

¶5. (C) There is still no firm evidence that the MAS intends to put the new draft constitution to a vote in the near future, and no current version of the newest rumored draft constitution is available for review. However, it is clear that the MAS is willing to manipulate the rules in order to achieve their objectives (for example, August 22's "majority" vote of 61 MAS members of Congress to impeach the Constitutional Tribunal magistrates, in a vote called to session in the Vice Presidential suites without any opposition congressmen present.) As violence continues in Sucre and the media luna departments are planning a civil strike for August 28, the MAS may take advantage of the many distractions to continue to try to push their agenda, with little consideration for legal niceties. End comment.